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9 Attorneys for Respondent Governor's Office

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11   IN THE UNITED STATES DISTRICT COURT

12   FOR THE NORTHERN DISTRICT OF CALIFORNIA

13   SAN FRANCISCO DIVISION

14

   Miguel Molina,   C07-3313 MMC
15
                          Petitioner,   **REQUEST FOR AN EXTENSION OF**
16   **TIME TO FILE A RESPONSIVE**
                                          PLEADING; DECLARATION OF
17   v.   **COUNSEL**

   Ben Curry, Warden,
18
                          Respondent.
19   Judge: The Honorable Maxine M. Chesney

20   **REQUEST FOR EXTENSION OF TIME TO FILE A RESPONSIVE PLEADING**

21   Petitioner Miguel Molina is a California state inmate proceeding pro se in this habeas

22 corpus action. Petitioner, who is currently serving an indeterminate sentence for second-degree

23 murder, alleges that the Governor unconstitutionally denied him parole in a 2003 parole reversal.

24 On October 16, 2007, this Court issued an order to show cause why the writ should not be

25 granted. For the reasons set forth in the accompanying declaration of counsel, Respondent

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Req. for Ext. of Time to File a Response; Decl. of Counsel   *Molina v. Curry*
                                                                               C07-3313 MMC

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1 respectfully requests a thirty-day extension of time, up to and including February 15, 2008, to

2 file a responsive pleading in this matter.

3   Dated: January 16, 2008

4   Respectfully submitted,

5   EDMUND G. BROWN JR.
                                   Attorney General of the State of California

6   DANE R. GILLETTE
                                   Chief Assistant Attorney General

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                                   JULIE L. GARLAND
8   Senior Assistant Attorney General

                                   ANYA M. BINSACCA
9   Supervising Deputy Attorney General

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12   /S/ BRIAN C. KINNEY
                                   BRIAN C. KINNEY
13   Deputy Attorney General
                                   Attorneys for Respondent

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Req. for Ext. of Time to File a Response; Decl. of Counsel   *Molina v. Curry*
                                                                             C07-3313 MMC

1   **DECLARATION OF COUNSEL**

2   I, Brian C. Kinney, declare:

3   1.   I am an attorney licensed to practice before the courts of the State of California. I am

4   employed by the California Office of the Attorney General as a Deputy Attorney General, in the

5   Correctional Writs and Appeals section.

6   2.   I am the attorney assigned to respond to the petition for writ of habeas corpus filed by

7   inmate Miguel Molina.

8   3.   On October 16, 2007, this Court issued an order to show cause requiring Respondent

9   to file a responsive pleading by January 16, 2008. This matter was assigned to me on November

10 5, 2007. That same day, my paralegal requested Petitioner's state superior court decision from

11 the San Luis Obispo County Superior Court, and Petitioner's state appellate court decision from

12 the California Second District Court of Appeal.

13   4.   The California Attorney General's Office never received these state court decisions

14 and recently re-requested them. The Attorney General's Office has yet to receive these

15 documents.

16   5.   In addition, it appears that Petitioner filed a second habeas petition on the same issue

17 in the California Court of Appeal after his first denial. Therefore, the California Attorney

18 General's Office also recently requested this second appellate decision. And the Attorney

19 General's Office has yet to receive this decision as well.

20   6.   As a result, I am respectfully requesting an extension of time because I lack these

21 decisions necessary to prepare a thorough responsive pleading. I respectfully request an

22 additional thirty days, up to and including February 15, 2008, to file a responsive pleading in this

23 matter.

24   7.   Petitioner is representing himself, and, because he is currently incarcerated, he is not

25 easily reachable for notification that I am requesting an extension of time.

26   8.   This request is not made for any purpose of harassment, undue delay, or for any

27 improper reason.

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Req. for Ext. of Time to File a Response; Decl. of Counsel   *Molina v. Curry*
                                                                                     C07-3313 MMC

1   / / /

2   9.   Without an extension of time, Respondent would be substantially harmed or prejudiced

3   because Respondent would not have an opportunity to prepare a thorough responsive pleading.

4   I declare under penalty of perjury that the above is true and correct, and that this declaration

5   was executed on January 16, 2008, in San Francisco, California.

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7   /S/ BRIAN C. KINNEY
                                                     Brian C. Kinney
8   Deputy Attorney General

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Req. for Ext. of Time to File a Response; Decl. of Counsel   *Molina v. Curry*
                                                                          C07-3313 MMC

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Miguel Molina v. Ben Curry, Warden**

Case No.:   **C07-3313 MMC**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On **January 16, 2008**, I served the attached

1) REQUEST FOR AN EXTENSION OF TIME TO FILE A RESPONSIVE PLEADING; DECLARATION OF COUNSEL

2) [PROPOSED] ORDER

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

Miguel Molina (D-21051)
Correctional Training Facility
P.O. Box 705, WA-324
Soledad, CA 93960-0686
IN PRO PER

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on **January 16, 2008**, at San Francisco, California.

R. Panganiban	/S/ R. Panganiban
Declarant	Signature

ProposedOrderMolina.wpd